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TO AN ADDRESS TO HIS EXCELLENCY THE GOVERNOR GENERAL for a copy of any memorials, correspondence, etc., between His Excellency the Governor General and the Colonial Office, or between any member of the Government, and the Foreign Consuls General in Canada, relative to the status of the latter, at official functions, such as Vice Regal Drawing Room.

CHAS. MURPHY,

Secretary of State.

The Officer Administering
the Government of
Canada.

DOWNING STREET,

1st June, 1906.

Sir,—I have had recently under my consideration points which have arisen in connection with the position and treatment of Foreign Consuls in the Colonies. and, after communication with the Secretary of State for Foreign Affairs, I have thought it proper to lay down certain principles for the guidance of Governors. You will understand that it is not expected that they can be applied in Colonies where a different practice has been established, but it is my desire that Colonial Governors should look to them as a guide in future when opportunities occur of applying them without unnecessary friction.

2. No general instructions to Colonial Governors respecting the position and treatment of Consuls appear to have been issued since a date nearly forty years ago, when it was intimated that if in any Colony precedence was, as a matter of courtesy, already accorded to the Foreign Consular Body, no alteration should be made, with a view of assimilating the practice to that in force in this country, without reference to the Secretary of State. It was observed, however, that Foreign Consuls in England have no claim of precedence, and are treated like any other Foreigners resident in England. This principle, I may now observe, equally extends to the Colonies, and it is not desirable that any instructions should be given tending to

recognise the principle of according precedence to the Foreign Consular Body. In 1863 a claim was advanced by the Consular Body at Sydney to be admitted to the entree at the Governor's levee on the occasion of the Sovereign's Birthday, and it was then stated that the rule of Her Majesty's Court was, that as Consuls-General and Consuls had no diplomatic character, and were not visitors of the Court, they fell into the class of Foreigners resident in England and went to the general entree and were presented in the general circle.

3. As regards privileges or exemptions, it was held, on a claim advanced by the Spanish Consul at Brisbane in 1856, that there were no privileges to which Foreign Consuls were strictly or legally entitled, as a right, in Great Britain or in any of her Colonies; that the English law considered them amenable to civil and criminal jurisdiction, did not give them, or allow them, any legal privileges whatever, and could hardly be said to recognise them in their official character; and that such privileges or exemptions as they might enjoy were conceded to them (if at all) either by the Executive or Local Authorities at their discretion or by usage and courtesy.

4. This decision should be carefully borne in mind as it would prove in the highest degree inconvenient if in British Colonies, Consuls of Foreign Powers should be permitted to acquire a claim to the privileges or immunities of diplomatic agents, or to assume in any other respect a footing different from that which they hold in the United Kingdom. Recent experiences have shown that this possible danger is a real one, and should be strictly guarded against.

5. In the correspondence which has given rise to the present despatch His Majesty's Government has been asked for instructions on several points, and I deal with these in the order in which they have been raised.

(a) As to ceremonials and formal courtesies. From the earlier part of this despatch it will be clear that the Consuls are not entitled to be specially received at public functions, and that they should not be given any precedence over local officials. In regard to this point, I may observe that, even if it were not objectionable on other grounds it would be impossible to lay down general rules as to precedence over officials, having regard to the varying importance in different Colonies of what is nominally the same office, and if special rules were laid down in each case they would give rise to endless claims from Consuls founded on the practice elsewhere which was most favourable to their contentions. The preceding considerations need not, however, prevent the Governor from specially receiving the Consuls, as a body, on certain occasions such as on the King's Birthday or on his own first arrival in the Colony, as an act of courtesy and not as a right, if this practice, which has been followed at the Cape since 1893, should be pressed upon him.

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As regards visits, it has already been observed that Consuls-General and Consuls are not visitors of the Court, and it follows that they do not "visit" the Governor, who is the King's representative in the Colony. If they wait on the Governor, on any other occasion than for the transaction of consular business, they do so on the same footing as any prominent inhabitant of the Colony, and their visit does not require to be formally returned on the Governor's behalf.

(b) With regard to the transaction of public business, Consuls should, under no circumstances, be permitted to approach the Local Governments except on matters connected with the personal welfare of their countrymen as individuals, and if they should make any representations on general political questions they should in all cases be required to communicate them to their respective Governments, to be dealt with through the proper diplomatic channels. The only legitimate functions of a Foreign Consul in relation to a Colonial Administration are those connected with the welfare of his nationals as individuals, and, therefore, any questions with regard to trade and commerce which might affect the general commercial policy of the Colony would fall into the category of those which must be discussed through the respective Foreign Offices.

(c) From what has already been said, it follows that no difference should be made in treatment, as between "consuls de carriere," and other consular officers.

(d) As regards the practice of appointing a Consul-General with local Consuls subordinate to him, all consular officers require recognition by the respective local Governments before they can enter on their functions, although such recognition is only withheld in the case of some valid objection to the appointment. His Majesty's Government would not interfere with the arrangements made by Foreign Governments for the performance of consular duties, and if, for example, a Foreign Government appointed a Consul-General for South Africa, it would be open to that official in virtue of his exequatur to communicate (in the exercise of his duties as above defined) with all Governors in South Africa, and if the same Government appointed, in addition, a Consul in a South African Colony where the Consul-General was not resident, His Majesty's Government would not require that consular communications with the Governor of that Colony should be made by the local Consul and not by the Consul-General, though they might reasonably require that communications connected with any one Colony should be with the occupant of one consular post only who would be designated by the Foreign Government concerned.

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